

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
D E P A R T M E N T O F H E A L T H



Safe and Healthy Lives in Safe and Healthy Communities

Board of Medical Licensure and Discipline

In the Matter of James J. Hagerty, M.D. C97-080A

Consent Order

Pursuant to R.I. Gen. Laws §5-37-5.2, 1956, as amended, (1995 Reenactment) a complaint was filed with the Board of Medical Licensure and Discipline (hereinafter referred to as "Board") charging James R. Hagerty, M.D., Respondent, with violations of § 5-37-5.1. An investigation was conducted by an Investigating Committee, so called, of the Board.

The following constitutes the Investigating Committee's Findings of Fact with respect to the professional performance of the Respondent.

Findings of Facts

1. The Respondent at all times herein referred to was a physician licensed to practice medicine in the State of Rhode Island. With respect to patient A, the Respondent practiced medicine as a physician practicing in the specialty of gynecology. Patient A came under the care of the Respondent. Another physician had previously inserted an intrauterine device ("IUD") in the patient.

2. Thereafter, the patient continued to treat with the Respondent and had an abnormal pap smear. The Respondent performed a cervical biopsy. The pathological interpretation was CIN III. Later, the Respondent performed a cold cone biopsy and D & C. During the procedure the Respondent planned to remove patient A's IUD. The report of the operation does not contain a reference to the IUD. Patient A began attempting to become pregnant. Her efforts were unsuccessful and the Respondent recommended various procedures to determine the cause of Patient A's infertility.

3. The Respondent performed a hysterosalpingogram and exploratory laparoscopy on the patient. The radiologist's report of the hysterosalpingogram reads as follows:

"Hysterosalpingogram: preliminary scout film of the pelvis reveals an IUD in satisfactory position. Examination was performed by Dr. Hagerty. Contrast material was introduced through the cervical canal with satisfactory filling of the uterus, and both fallopian tubes. The tubes are patent with spill present bilaterally. No defects are noted in the uterus. Impression: normal hysterosalpingogram."

This report of the hysterosalpingogram was present in the records of the Respondent.

4. Patient A was referred to other physicians by the Respondent and learned that her IUD was still in place.

5. The Board finds the Respondent guilty of unprofessional conduct for failure to conform to the minimal standard of acceptable practice in violation of R.I.G.L. § 5-37-5.1 for failing to remove the IUD and failure to note the

report of the hysterosalpingogram which documented the IUD was still in place and a failure to remove the IUD.

The parties agree as follows:

- (1) The Respondent was a physician licensed and doing business under and by virtue of the Laws of the State of Rhode Island, allopathic license Number MD 3260.
- (2) Respondent admits to the jurisdiction of the Board and hereby agrees to remain under the jurisdiction of the Board.
- (3) Respondent has read this Consent Order and understands that it is a proposal of an Investigating Committee of the Board and is subject to the final approval of the Board. This Consent Order is not binding on Respondent until final ratification by the Board.
- (4) Respondent hereby acknowledges and waives:
 - a. The right to appear personally or by counsel or both before the Board;
 - b. The right to produce witnesses and evidence in his behalf at a hearing;
 - c. The right to cross examine witnesses;
 - d. The right to have subpoenas issued by the Board;
 - e. The right to further procedural steps except for specifically contained herein;
 - f. Any and all rights of appeal of this Consent Order;

- g. Any objection to the fact that this Consent Order will be presented to the Board for consideration and review;
 - h. Any objection to the fact that it will be necessary for the Board to become acquainted with all evidence pertaining to this matter in order to review adequately this Consent Order;
 - i. Any objection to the fact that potential bias against the Respondent may occur as a result of the presentation of this Consent Order.
- (5) Acceptance of this Consent Order constitutes an admission by the Respondent of the facts set forth herein;
 - (6) This Consent Order shall become part of the public record of this proceeding once it is accepted by all parties and by the Board.
 - (7) Failure to comply with this Consent Order, when signed and accepted, shall subject the Respondent to further disciplinary action.
 - (9) The Respondent has previously voluntarily retired from the practice of medicine. He agrees not seek licensure in the future.

Signed this 28th day of OCTOBER, 2000.

James R. Hagerty
James R. Hagerty, M.D.

Ratified by the Board of Medical Licensure and Discipline at a meeting

held on October 11, 2000

Patricia A. Nolan, MD, MPH
Patricia A. Nolan, MD, MPH
Director of Health
Chairperson
Board of Medical Licensure and Discipline